

REMARKS

This application presently includes Claims 17-28, all of which stand rejected. As apparent from the Amendments to the Claims attached to this response, Claims 17, 18, 20-26 and 28 have been amended. Claim 27 has been canceled while Claims 29-32 have been newly added.

Specification

The Examiner states that the abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). The Examiner requires a new abstract of the disclosure.

In response to this requirement, a new abstract of the disclosure is being submitted on a separate sheet apart from the other text of this response.

Claim Rejection - 35 USC 112

Claims 20-26 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- (1) The Examiner states that in Claim 20, Lines 3-4, “said container” lacks antecedent basis, as no container has been defined, only inferred. In response to this rejection, the phrasing “said container” has been removed from Claim 20.
- (2) The Examiner suggests “said each aperture” in Claim 20, Line 4, lacks antecedent basis and should be --each said aperture--. Following the Examiner’s suggestion, “said each aperture” in Claim 20 has been changed to “each said aperture”. In addition, “each aperture” in each of Claims 21 to 24 has been changed to “each said aperture”.
- (3) The Examiner also suggests that “said article” in Claim 20, Lines 5 and 6, lacks antecedent basis and should be --the article--, as only positively defined elements of the

invention are “said____”. In response to this rejection, the phrasing “said article” has been removed from Claim 20.

Because of the above amendments, withdrawal of the rejection under 35 USC 112 is respectfully requested.

Claim Rejection - 35 USC 102

Claims 20-26 were rejected under 35 USC 102(b) as being anticipated by Galbierz et al. (US 5,845,776). The Examiner is of the view that all the claimed elements in each of Claims 20-26 are disclosed in Galbierz. In view of this rejection, Claims 20 to 26 have been amended.

Claim 20 as amended requires that the carton includes a bottom end closure for supporting the bottoms of the bottles. Galbierz does not disclose such a bottom end closure. Claim 20 as amended also requires that a frangible connection extends from each aperture to facilitate removal of the bottles such that pulling on one or more of the bottle necks breaks the frangible connection. Galbierz does not disclose a frangible connection that is broken by pulling on bottle necks. It is apparent in view of Figures 6, 7 and 9 that the frangible connections in Galbierz must be broken before bottles are removed from the respective carton. Galbierz states “When the tab 61 is pulled, the two plies are pulled together, and form a space 77 (FIG. 6) between the two columns of bottles....” (Column 11, Lines 36 to 46). For the above reasons, Claim 20 is not anticipated by Galbierz and therefore allowable

Claims 21 to 26 depend from Claim 20 and therefore are also allowable. However, Claim 25 is allowable for its own merit in that it defines an arrangement that is not disclosed by Galbierz. Claim 25 requires that a frangible connection between two of the apertures intersects a frangible connection between two other apertures and that each frangible connection is a breakable line. Galbierz does not show breakable lines that intersect each other. To this end, the Examiner’s attention is invited to Galbierz, Column 11, Line 63, as well as Figures 2 and 4. More specifically, it is respectfully submitted that Lines 81, 83, 85 shown in Galbierz are not breakable

lines but fold lines.

Claim Rejections - 35 USC 103

Claims 17-19 and 28 were rejected under 35 USC 103(a) as being unpatentable over Mardon (GB 406511) in view of Taub (US 4,7171,070). Claim 27 has been rejected under 35 USC 103(a) as being unpatentable over Mardon in view of Galbierz. In view of these rejections, Claims 17 and 28 have been amended. Claim 27 has been canceled without prejudice.

• **Claim 17**

Claim 17 as amended requires that the top closure includes a pair of inner and outer handle panels that are hingedly connected together along a common upper edge of the inner and outer handle panels. As further required by Claim 17, the inner and outer handle panels are disposed respectively along the inside and outside surfaces of the at least one of the end walls of the open top container. The arrangement claimed in Claim 17 causes the inner and outer handle panels to be positioned astride the uppermost edge of the at least one end wall and thereby ensures that the top closure is prevented from moving downward beyond a predetermined recessed position. Neither Mardon nor Taub shows inner and outer hingedly connected panels that is disposed respectively along the inside and outside surfaces of a container end wall. Neither Mardon nor Taub suggests such an arrangement would be of any benefit. Mardon, in particular, teaches away from the arrangement of Claim 17 because Figures 2 and 5 of Mardon suggest that downward movement of the diaphragm 11 should be prevented either by the divisions 6 or by allowing the diaphragm 11 to rest on the bottle shoulders. Mardon, in fact, states "The diaphragm rests upon the intersecting partitions 6...." (Page 2, Lines 93 and 94) Mardon also states "The hole 5 is of larger diameter to allow the diaphragm to rest on the shoulders of the bottle at 14." (Page 2, Lines 120-123) For these reasons, Claim 17 is allowable.

Claims 18, 19, 29, 30 and 31depend directly or indirectly from Claim 17 and therefore are also allowable.

• **Claim 28**

Claim 28 as amended also requires that the top closure includes a pair of inner and outer handle panels that are hingedly connected together along a common upper edge of the inner and outer handle panels. Claim 28 also requires that the inner and outer handle panels are disposed, when a carton is erected, along the inside and outside surfaces of the at least one of the end walls respectively. Since Claim 28 includes substantially the same limitations as Claim 17, Claim 28 is allowable.

Claim 32 depends directly from Claim 28 and therefore is also allowable.

Election/Restrictions

The Examiner states that the application contains claims directed to more than one species of the generic invention. The Examiner is of the view that the species are deemed to lack unity of invention. The Examiner states that the more than one species are as follows:

- Species A (Figures 1A-1C)
- Species B (Figures 2A-2C)
- Species C (Figures 3A-3C)
- Species D (Figures 4A-4C)
- Species E (Figures 5A-5C)
- Species F (Figures 6A-6C))
- Species G (Figures 7A-7C)
- Species H (Figures 8A-8C)
- Species I (Figures 9A-9C)

The Examiner requires Applicant to elect one of the above species to which the claims are restricted if no generic claim is finally held to be allowable. In response to this requirement, Applicant hereby

elects Species F (Figures 6A-6C) on which Claims 17, 19, 20, 22, 24, 25, 28, 29, 30, 31 and 32 are readable. This election is made without traverse.

It is earnestly requested that in view of the above remarks and the attached Amendments, the application, as a whole, receive favorable reconsideration.

Respectfully submitted,

/Tsugihiko Suzuki/

Tsugihiko Suzuki, Reg. No. 36,321

Date: April 8, 2009

MeadWestvaco Corporation, Law Department
1021 Main Campus Drive
Raleigh, NC 27606

Telephone: 919-334-3994
Facsimile: 919-834-0844